

**BEFORE THE
PUBLIC SERVICE COMMISSION OF WISCONSIN**

Application for a Certificate of Public
Convenience and Necessity of Badger
Hollow Solar Farm, LLC to Construct an
Electric Tie Line to Connect a Solar Electric
Generation Facility to the Existing Transmission
System, to be Located in Iowa County Wisconsin.

Docket No. 9697-CE-101

**JEWELL JINKINS INTERVENORS
REPLY TO APPLICANT’S OBJECTION TO INTERVENTION OUT-OF-TIME**

Applicant Badger Hollow Solar Farm, LLC (“Badger Hollow”) has objected to intervention of Jewell Jinkins Intervenors in the above-captioned docket. Their objection should be denied, and Jewell Jinkins Intervenors should be granted full party status.

Applicants object to cut and paste statements of interest, but didn’t find any issue with the very short and much more general statements of other intervenors, and claim the facts belie these assertions. Applicant’s attached map shows the proximity of Jinkins and Wendhausen property, questioning proximity of Jewell property, but Applicant has not taken into account family trust land in which Jewel has an interest.

As noted in our reply to the objection to intervention in the acquisition docket, 5-BS-228, Jewell Jinkins Intervenors request for party status is admittedly out-of-time, having learned about the solar project CPCN and intervened immediately, and then learned of the solar transmission and acquisition dockets after the deadline had passed. The Notice of Proceeding for the solar

project docket (9697-CE-100) was issued October 4, 2018, and the Notice of Prehearing Conference was issued October 18, 2018, and neither of those Notices contained any reference to this transmission docket 9697-CE-101. Jewell Jinkins Intervenors had no way of knowing or guessing that this docket was before the Commission, as no notice was provided to them, and they would have no notice to look for such a docket. The request for intervention in the transmission docket was filed November 12, 2018, just 4 days after retaining counsel, upon counsel searching for and discovering the docket, and just two weeks after the intervention deadline had passed.¹ This is a matter of equity. Intervention and Commission procedure is difficult to navigate and this level of involvement is not taken lightly by landowners. There was no delay – action was taken immediately upon learning the two other related dockets existed.

As also noted in the 05-BS-228 filing, because of the interrelated nature of the three (or five including Two Creeks) solar dockets, 5-BS-228, 9697-CE-100 and 9697-CE-101, Jewell Jinkins Intervenors do have a “substantial interest that may be affected by the commission’s action or inaction.” Wis. Code PSC §2.21(1). If that interest is deemed “not substantial enough,” Jewell Jinkins Intervenors request should be granted as permissive intervention, because “participation likely will promote the proper disposition of the issues to be determined in the proceeding.” Because the schedule has been set and agreed upon by all parties, “participation will not impede the timely completion of the proceeding or docket.” Wis. Code PSC §2.21(2).

The 9697-CE-101 transmission docket is very closely tied to the Applicants’ 9697-CE-100 docket, as they are literally being addressed together in the same Prehearing Conference, the transcript provided to parties is labeled “Docket 9697-CE-100 and 101, Tr. 1-44,” a simultaneous technical hearing will be held, and also a simultaneous public hearing will be held in the project

¹ Counsel was retained on very limited basis for filing the 9697-CE-101 intervention only, the day the filing was due. Counsel was retained for the project on November 8, 2018.

area. As noted in previous filing, Applicant's objections ignore the repeated mantra in this group of dockets -- that these dockets are proceeding together, that decisions for one are based on others, that this is essentially one docket broken into pieces.² Jewell Jinkins Intervenors cannot effectively participate in one of these three simultaneous dockets without ability to participate in the others as necessary.

Jewell Jinkins Intervenors have an interest in these literally-linked Badger Hollow dockets (9697-CE-100 and 9697-CE-101) and the acquisition docket (5-BS-228) to the extent it relates to Badger Hollow.³ The inherent linkage of these dockets is seen in the frequent references in the transcript of the Prehearing Conference for Docket 9697-CE-100/101, held November 9, 2018, referencing the other dockets, and scheduling the various events in an interwoven proceeding. The interrelatedness of the many dockets is admitted by counsel for Applicants:

In addition, it is very clear and I think everyone's aware of this, that these two CPCN proceedings that we're discussing this afternoon are related to the other CPCN proceedings that were discussed this morning as well as the buy/sell CA proceeding which Your Honor will be considering next week I think at prehearing conference. And those are interrelated and they have been interrelated in terms of discussions with Commission staff and consideration by Commission staff and ultimately for consideration by Commission – by the Commission.

Transcript Docket 9697-CE-100 and 101.

WIEG's counsel also noted that linkage:

And the second thing is, yes, there is no need in this case. But because all five of these cases are tied together and I think at the – you know, at the request of the utilities and those who are – and the applicants here, if – need is actually important for the five together if this is going forward on the same schedule. And so if need is not – I just don't think need is relevant to – talking about the schedule

² The Badger Hollow dockets (9697-CE-100 & 101) are also tied to the Cardinal-Hickory Creek 345 kV transmission line docket (5-CE-146), repeatedly referenced in PSC staff Discovery, and briefly in the Prehearing Conference. Tr. 1-39, p. 27, l. 21 et seq.

³ Jewell Jinkins have no interest in the two Two Creeks dockets running concurrently with the Badger Hollow dockets, nor have they any interest in the above-captioned acquisition docket to the extent it relates to Two Creeks.

in this particular case if it is still critical to what happens in the 5-BS-228 case.

Id, p. 16-17.

Further, there will be a joint EA for dockets 9697-CE-100 and 9697-CE-101 assembled by PSC staff. Id., Tr. p. 17-20. PSC staff sent out the “96979-CE-100 and 9697-CE-101 – Schedule and Issues” email on 11/6/2018, listing both dockets and proposed scheduling with no differentiation between dockets, and the same for issues – it was at this point, on this date, counsel learned of 9697-CE-101, this transmission docket. For additional examples of linkage, see, e.g., Transcript Docket 9697-CE-100 & 101, Tr. p. 14-14; see also Tr. 1-44, Tr. p. 6, l. 12-19.

Jewell Jinkins Intervenors are well aware of the PSC’s schedule set at the Prehearing Conference because it was set in our presence and we have agreed to abide by that schedule. Applicants claim in its objection that counsel waited “for nearly one month after she had been retained by JJW.” That is not correct. Counsel was initially only retained for one task in the 9697-CE-100 solar project docket, the Intervention filing on October 18, with first contact at 10:47 a.m. for the limited purpose of very quickly drafting and filing an Intervention Request, after which Jewell Jinkins Intervenors would determine their course of action. Counsel was not retained for additional scope of work until November 8, 2018. Intervention requests were filed in haste on the following Monday in the two other dockets (this 9697-CE-101 and 5-BS-228). There has been no unreasonable nor has there been inexplicable delay.⁴

For the above reasons, Jewell Jinkins Intervenors again respectfully request that they be granted this request to intervene as a party with all the rights, responsibilities and obligations of full party status in the above-captioned proceeding.

⁴ Further, while Applicants make much of pushing the schedule along, the project schedules filed with their applications in both docket show 360 day PSC review, “6-12 months” on [Appendix B Preliminary GEN-TIE Project Construction Schedule](#), with the PSC Order not contemplated in their project schedule until July 13, 2019!

Dated this 20th day of November, 2018.



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